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**FEB 28 2006**

**OFFICE OF PETITIONS**

Applied Biosystems  
500 Old Connecticut Path  
Framingham, MA 01701

In re Application of  
Parker et al.  
Application No. 09/851,058  
Filed: May 08, 2001  
Attorney Docket No. SYP-172

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: DECISION REGARDING PTA  
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This decision is in response to Applicants' "LETTER REGARDING PATENT TERM ADJUSTMENT)" filed on June 29, 2005 asserting that applicants believe that they received too much PTA at the time of the mailing of the notice of allowance.

The Office thanks applicants for their good faith and candor in bring this letter to the attention of the Office.

Applicants letter is **GRANTED**. The Office will adjust the amount of PTA from a determination of three hundred and ninety-six (396) days to a determination of three hundred and sixteen (316) days.

The Office agrees that too much PTA was awarded at the time of the mailing of the notice of allowance. The determinations of two hundred and sixty (260) and two hundred and five (205) days are not accurate. The mailing of the letter regarding sequence submission is not considered an action within the meaning of 35 U.S.C. 132 and therefore should not be a measuring point under 37 CFR 1.702(a)(1). Nor is the response by applicant to sequence letter put the Office on a clock pursuant to 37 CFR 1.702(a)(2). Accordingly, the two determinations are in error. The Office should have measured the period under 37 CFR 1.702(a)(1) as three hundred and eighty-five (385) days.<sup>1</sup> Accordingly, the overall amount of PTA at the time of the mailing of the notice of allowance is three hundred and sixteen days( 385+ 10 -(2)-(21)-56= 316) days.

After the mailing of the Office action, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the application.

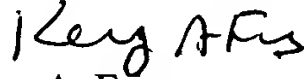
Any additional delays in failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied under 37 CFR 1.702(a)(4) will be added at the time of the issuance of the patent and notice will be mailed to applicants in the Issue Notification letter that is mailed approximately three weeks prior to issuance.

Because applicants have submitted this letter in response to good faith and candor, the Office will not assess any fees concerning the amount of Patent Term Adjustment.

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<sup>1</sup>The period began on July 9, 2002, day after 14 month deadline and ended on the date of the mailing of the non-final rejection on July 28, 2003, a three hundred and eighty-five day delay

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.



Kery A. Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

cc: Adjusted PAIR calculation

Day : Monday  
Date: 2/27/2006 **PALM INTRANET**

Time: 14:45:55

PTA Calculations for Application: 09/851058					
Application Filing Date:		05/08/2001	PTO Delay (PTO):		475
Issue Date of Patent:			Three Years:		0
Pre-Issue Petitions:		0	Applicant Delay (APPL):		79
Post-Issue Petitions:		0	Total PTA (days):		316
PTO Delay Adjustment:		-80			
File Contents History					
Number	Date	Contents Description	PTO	APPL	START
52	02/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		465	
51	02/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	385		
43	03/29/2005	MAIL NOTICE OF ALLOWANCE			
42	03/29/2005	MAIL EXAMINER'S AMENDMENT			
41	03/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	03/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
39	03/18/2005	EXAMINER'S AMENDMENT COMMUNICATION			
38	03/18/2005	NOTICE OF ALLOWABILITY			
37	03/16/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	03/01/2005	DATE FORWARDED TO EXAMINER			
35	02/17/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	03/01/2005	DATE FORWARDED TO EXAMINER			
33	02/17/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		56	30
32	03/01/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	02/17/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	09/23/2004	MAIL FINAL REJECTION (PTOL - 326)			
29	09/20/2004	FINAL REJECTION			
28	07/09/2004	DATE FORWARDED TO EXAMINER			
27	07/01/2004	RESPONSE AFTER NON-FINAL ACTION		21	23
26	07/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	07/01/2004	WORKFLOW INCOMING PETITION IFW			

24	07/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	03/10/2004	MAIL NON-FINAL REJECTION	10		20
22	03/08/2004	NON-FINAL REJECTION			
21	11/04/2003	DATE FORWARDED TO EXAMINER			
20	10/30/2003	RESPONSE AFTER NON-FINAL ACTION		2	19
19	07/28/2003	MAIL NON-FINAL REJECTION	205		16
18	07/28/2003	NON-FINAL REJECTION			
17	05/09/2003	DATE FORWARDED TO EXAMINER			
16	09/04/2002	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
15	05/09/2003	MAIL NOTICE OF RESCINDED ABANDONMENT			
14	05/09/2003	NOTICE OF RESCINDED ABANDONMENT IN TCS			
13	04/02/2003	ERROR(S) IN CRF CORRECTED BY STIC			
12	03/25/2003	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION	260		-1
11	03/24/2003	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
10	08/14/2002	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
9	08/14/2002	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
8	10/01/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	07/16/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
6	09/13/2001	APPLICATION DISPATCHED FROM OIPE			
5	07/03/2001	APPLICATION IS NOW COMPLETE			
4	07/03/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	07/02/2001	CORRESPONDENCE ADDRESS CHANGE			
2	05/15/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/08/2001	INITIAL EXAM TEAM NN			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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